IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

GREG NEWSOME, et al.,

Plaintiffs,

v.

No. 02-2203 B

NORTHWEST AIRLINES CORP., et al.,

Defendants.

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ORDER DENYING PLAINTIFFS' MOTION TO RECONSIDER
ORDER DENYING CLASS CERTIFICATION

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Before the Court is the motion of the Plaintiffs, Greg Newsome, Christian White, Daren Bow, James Hagbloom, Jeffrey George Unger, Jerome Donald Unger, Jeseph Vella, Matthew Peak, Raymond Downie, Scott Donahoe, Timothy Schmittou, Thomas Joseph Hales, Amy Boutwell, Michael Beri, Rasashan Salyasahn, John Brake, Steven Nowitzke, Ronald John Covacs and Robert W. Clarin, to reconsider the March 24, 2003 order of the Court denying class certification in this matter, pursuant to Rule 59(e) of the Federal Rules of Civil Procedure.

Although the Plaintiffs move under Rule 59, no Federal Rule actually permits "motions for reconsideration." Rule 59 does, however, permit the filing of motions to alter or amend a judgment within ten days after entry of judgment.

> The purpose of a motion to alter or amend judgment under Fed. R. Civ. P. 59(e) is to have the court reconsider matters properly encompassed in a decision on the merits. This rule gives the district court the power to rectify its own mistakes . . . Generally, three situations justify a district court altering or amending its judgment: (1) to accommodate an intervening change in controlling law; (2) to account for new evidence not available at trial; or (3) to correct a clear error of law or to prevent a manifest injustice. It is not designed to give an unhappy litigant an opportunity to relitigate matters already decided, nor is it a substitute for appeal.

Sherwood v. Royal Ins. Co. of Am., 290 F.Supp.2d 856, 858 (N.D. Ohio 2003) (internal citations and quotation marks omitted). Rule 59(e) motions are designed for *re*consideration, not *initial* consideration. Johnson v. Henderson, 229 F.Supp.2d 793, 796 (N.D. Ohio 2002).

The Plaintiffs argue that the order, entered by District Judge Bernice B. Donald, was "premature and in direct conflict with its earlier order of April 19, 2002," in which Judge Donald ordered that the motion for class certification be "deferred until a briefing and discovery schedule is issued at the initial scheduling conference." See Mem. of Law in Supp. of Pls.' Mot. to Reconsider Order Denying Class Certification at 2-3.) Regretfully, as the Plaintiffs have not argued that there exists an "intervening change in controlling law," "new evidence not available at trial," "a clear error of law" or a "manifest injustice," the Court has no basis upon which relief under Rule 59(e) may be granted.

The Plaintiffs further request "an opinion from the Court regarding the basis for its ruling," which was stated in one sentence: "Upon review of the motion, case record, applicable law and rules, the court finds that the prerequisite for class certification, as set forth in Fed. R. Civ. P. 23, have [sic] not been met."[1] (Order at 1.) However, having not made the ruling, the undersigned is in no position to elaborate on the reasoning therefor.

For the reasons set forth herein, the motion to reconsider is DENIED.

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[1]Subsequent to entry of the March 24 order, this matter was transferred from Judge Donald's court to that of the undersigned.

IT IS SO ORDERED this 28th day of April, 2005.

J. DANIEL BREEN
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT - WESTERN DISTRICT OF TENNESSEE

# Notice of Distribution

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Honorable J. Breen
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